

AMENDED IN ASSEMBLY MARCH 6, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2198

Introduced by Assembly Member Soto

February 20, 2008

An act to amend Sections 148.9, 834a, and 836.6 of the Penal Code, relating to public officers.

LEGISLATIVE COUNSEL’S DIGEST

AB 2198, as amended, Soto. Public officers: false representation: resisting arrest: escape from custody.

Existing law makes it a misdemeanor, under certain circumstances, for any person to falsely represent or identify himself or herself as another person or as a fictitious person to any of certain specified peace officers, upon a lawful detention or arrest of the person, either to evade the process of the court, or to evade the proper identification of the person by the arresting officer.

This bill would additionally prohibit falsely representing or identifying oneself to certain—*public code enforcement* officers under these circumstances and for one of these purposes. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

Existing law provides that, if a person has knowledge, or by the exercise of reasonable care, should have knowledge, that he or she is being arrested by a peace officer, it is the duty of the person to refrain from using force or any weapon to resist arrest.

This bill would extend this duty to arrests made by certain—*public code enforcement* officers.

Existing law makes it a misdemeanor for any person who has been lawfully arrested by any peace officer and who knows, or by the exercise of reasonable care should have known, that he or she has been arrested, to thereafter escape or attempt to escape from that peace officer, except that it is felony or a misdemeanor if the escape or attempted escape is by force or violence and the person proximately causes a peace officer serious bodily injury.

This bill would extend that crime to the escape or attempted escape from certain ~~public code enforcement~~ officers. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 148.9 of the Penal Code is amended to
2 read:
3 148.9. (a) Any person who falsely represents or identifies
4 himself or herself as another person or as a fictitious person to any
5 peace officer listed in Section 830.1 or 830.2, or subdivision (a)
6 of Section 830.33, upon a lawful detention or arrest of the person,
7 either to evade the process of the court, or to evade the proper
8 identification of the person by the investigating officer is guilty
9 of a misdemeanor.
10 (b) Any person who falsely represents or identifies himself or
11 herself as another person or as a fictitious person to any other peace
12 officer defined in Chapter 4.5 (commencing with Section 830) of
13 Title 3 of Part 2, or to a ~~public officer as described in Section 836.5~~
14 *code enforcement officer, as defined in Section 241*, upon lawful
15 detention or arrest of the person, either to evade the process of the
16 court, or to evade the proper identification of the person by the
17 arresting officer is guilty of a misdemeanor if (1) the false
18 information is given while the peace officer or ~~public code~~
19 *enforcement* officer is engaged in the performance of his or her

1 duties as a peace officer or ~~public code enforcement~~ officer and
2 (2) the person providing the false information knows or should
3 have known that the person receiving the information is a peace
4 officer or ~~public code enforcement~~ officer.

5 SEC. 2. Section 834a of the Penal Code is amended to read:

6 834a. If a person has knowledge, or by the exercise of
7 reasonable care, should have knowledge, that he or she is being
8 arrested by a peace officer or a ~~public officer as described in~~
9 ~~Section 836.5 code enforcement officer, as defined in Section 241,~~
10 it is the duty of such person to refrain from using force or any
11 weapon to resist such arrest.

12 SEC. 3. Section 836.6 of the Penal Code is amended to read:

13 836.6. (a) It is unlawful for any person who is remanded by a
14 magistrate or judge of any court in this state to the custody of a
15 sheriff, marshal, or other police agency, to thereafter escape or
16 attempt to escape from that custody.

17 (b) It is unlawful for any person who has been lawfully arrested
18 by any peace officer or ~~public officer as described in Section 836.5~~
19 ~~code enforcement officer, as defined in Section 241,~~ and who
20 knows, or by the exercise of reasonable care should have known,
21 that he or she has been so arrested, to thereafter escape or attempt
22 to escape from that peace officer or ~~public code enforcement~~
23 officer.

24 (c) Any person who violates subdivision (a) or (b) is guilty of
25 a misdemeanor, punishable by imprisonment in a county jail not
26 to exceed one year. However, if the escape or attempted escape is
27 by force or violence, and the person proximately causes a peace
28 officer or ~~public officer as described in Section 836.5 code~~
29 ~~enforcement officer, as defined in Section 241,~~ serious bodily
30 injury, the person shall be punished by imprisonment in the state
31 prison for two, three, or four years, or by imprisonment in a county
32 jail not to exceed one year.

33 SEC. 4. No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution because
35 the only costs that may be incurred by a local agency or school
36 district will be incurred because this act creates a new crime or
37 infraction, eliminates a crime or infraction, or changes the penalty
38 for a crime or infraction, within the meaning of Section 17556 of
39 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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